THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION Nos. 23279 and 25873 of 2001 and 1914 of 2002

COMMON ORDER:

1 Since common questions of law and fact arise in all the three writ petitions and since the relief claimed in all the three petitions is the same, they are being disposed of by a common order.

2 The case of the petitioners is that Church of South India (CSI) which was having vast extent of land in Dornakal, sought permission to lay out that land in which 1749 Sq. Yards was earmarked for park. That lay out was approved. Subsequently CSI made a request to the Gram Panchayat offering some other land of 2777 Sq. Yards in exchange of the land of 1749 Sq. Yards earmarked for being used as a park, which was accepted by the Gram Panchayat through a resolution in 1990. As required by the provisions of the A.P.Gram Panchayat Act, 1964 and A.P.Panchayat Raj Act, 1994 and the Rules made there under permission from the 1st respondent was obtained and thereafter a deed of exchange was executed by the CSI and the Gram Panchayat and through that deed which was registered CSI became entitled to 1749 Sq. Yards and the gram Panchayat became entitled to 2777 Sq. Yards and accordingly the Gram Panchayat was put in possession of 2777 Sq. Yards and CSI was put in possession of 1749 Sq. Yards. Subsequently, CSI, after making lay out, sold the land of 1749 Sq. Yards earlier earmarked for park, to the petitioners. Thereafter they made applications to the Gram Panchayat seeking permission to construct houses therein. As the Gram Panchayat was not giving the permissions sought by them, and was trying to interfere with their possession over the land purchased by them, they filed suits seeking decrees of perpetual injunction restraining the Gram Panchayat from interfering with their possession, and for mandatory injunction to direct the Gram Panchayat to grant the permission sought and mutate their names in the concerned registers. Those suits were referred to the Chairman, Taluq Legal Services Authority, Mahaboobabad, before whom the Gram Panchayat agreed to accord permission to the petitioners after receiving the required amount, and accordingly orders were passed in the suits filed by the petitioners. Thereafter Lok Satta, Dornakal Mandal represented by its President Y.Brundadar

Rao filed writ petitions for quashing the order of the Taluq Legal Services Authority, passed in favour of the petitioners. A Division Bench of this Court, by a common order dated 20-09-2004 dismissed those writ petitions. As the members and the Sarpanch of the gram panchayat were not in favour of the exchange of the land between the gram panchayat and CSI, or granting a permission to the petitioners, they passed an unanimous resolution on 14.9.2001 reading

These writ petitions are filed to set aside or quash the said resolution.

3 The contention of the learned counsel for the petitioners is that the members of the Gram Panchayat deliberately, in order to cause inconvenience to the petitioners, passed the impugned resolution, to get over the order of the Legal Services Authority, which has the force of a decree of civil court and since the transaction effected by a registered document cannot be set at naught by mere passing of a resolution by the Gram Panchayat, the title vested in the vendor of the petitioners in the property purchased by the petitioners, held good by the date of their purchase and since the petitioners complied with all the requirements and intended to construct buildings strictly in accordance with the building rules, the impugned resolution is liable to be quashed. The contention of the learned standing counsel for the gram panchayat is that inasmuch as the Gram Pacnahayat has a right to cancel a resolution passed by it earlier, it passed a resolution cancelling its earlier resolution, and as the land given away in exchange to CSI would revest in the Gram Panchayat in the event of the deed of exchange being cancelled, the petitioners are not entitled to any relief.

4 That the Gram Panchayat had, after following the procedure prescribed by the Panchayat Raj Act and the Rules made there under, executed a registered exchange deed and took delivery of 2,777 Sq. Yards of site belonging to the CSI and

redelivered 1,749 Sq. Yards of site to CSI is an admitted fact. Petitioners purchased portion of the 1749 Sq. yards from CSI subsequently. Since it is well known that a registered exchange deed cannot be set at naught by the Gram Panchayat by merely passing a resolution to cancel the registered exchange deed, merely because the Gram Panchayat passed a resolution not to act upon the registered exchange deed, the registered exchange deed would not get effected and so the CSI, which became the owner of 1,749 Sq. Yards, and had absolute right to deal with the said land, can convey title to that land to the petitioners. So title of the petitioners to the property purchased by them is beyond any pale of doubt and their title does not get vitiated by the impugned resolution. If the Gram Panchayat wanted to get back that site of 1749 Sq. Yards from the CSI, it should follow the same procedure that was followed by the earlier body, and only after it obtains necessary orders from the 1st respondent and surrenders 2777 Sq. Yards taken by it under the registered exchange deed can it have any claim over 1749 Sq. Yards given away to CSI. By its unilateral act passing a resolution the exchange deed executed and registered earlier would not become inoperative.

5 Having agreed before the Taluq Legal Services Authority that it would accord permission to the petitioners and permit them to construct houses after they make the payment, the gram panchayat cannot, by passing a resolution, try to wriggle out of the order of the Legal Services Authority, which as per Section 21 of the Legal Services Authorities Act, 1987 is a deemed 'decree' of a civil Court and is final and binding on all the parties to the dispute.

6 As I entertained a doubt whether the action of the Gram Panchayat in passing a resolution not to obey the order of the Legal Services Authority would amount to contempt of Court or not, I heard the learned Standing Counsel for the Gram Panchayat on that aspect. He, relying on the following passage in G.C.V.Subba Rao's Commentary on Contempt of Courts Act, 1971 (4th Edition)

> 73. The question how far the law should prohibit conduct which may unintentionally or inadvertently create a risk of prejudice is much more difficult and controversial, because it is here that the main conflict arises between the public interest in the due administration of justice and the principle of freedom of speech. The extent to which the law, and in particular this branch of the law, should limit the freedom of the press is one upon which opinions differ widely. The greater part of the evidence

> submitted to us was concerned with this aspect of the law of contempt and is application under modern conditions of public communication. Consideration of this problem took much time and caused us substantial difficulty. There is, of course, no right to absolute freedom of speech either in the law of England or of Scotland; speech is free except in so far as the law restrains it, and therefore the crucial question is what measure of restraint is required in the interests of the due administration of justice. Among the substantial volume of evidence we received from the press and others, there was no suggestion that the law was wrong in principle, but much anxiety was expressed by responsible interests about the uncertainty of its scope and application.

contended that a lenient view may be taken because the members might not have intended to disrespect the orders of the Court.

7 The above passage relied on by the learned Standing Counsel, in my considered opinion, has no relevance for deciding the question relating to contempt because that passage relates to publication of the proceedings of the Court. In this case, the question is whether by the act of passing an unanimous resolution, not to obey the order of the Legal Services Authority, the members of the Gram Panchayat have committed contempt of Court or not.

8 I am alive to the fact that there is limitation to initiate contempt proceedings. But as the period of limitation commences from the date of knowledge but not from the date of actual contempt, and since the Gram Panchayat passing the resolution not to obey the orders of the Legal Services Authority came to my notice only at the time of hearing of these cases yesterday i.e. 03.10.2007, before taking up any further proceedings relating to contempt, a show cause notice to the members of the Gram Panchayat who passed the resolution impugned in these writ petitions is being issued to show cause why proceedings for criminal contempt cannot be initiated against them.

9 Therefore, the Registry is directed to issue show cause notice to all the members of the members of the Gram Panchayat Dornakal, who were the members of the impugned resolution to appear before the court on 17.12.2007 to show cause why proceedings for criminal contempt cannot be initiated against them.

10 Since the petitioners, by ignoring the resolution impugned, could file a petition to execute the order of the Legal Services Authority passed in their favour and since the learned Standing Counsel for the Gram Panchayat stated that he would advise the Gram Panchayat to accord necessary sanctions to the petitioners, by not

quashing the impugned resolution the rights of the petitioners to enforce the order of the Legal Services Authority are not hampered, these writ petitions are dismissed as unnecessary. Petitioners are at liberty to file petitions to execute the orders of the Legal Services Authority passed in their favour. Parties are directed to bear their own costs.

Justice C.Y.Somayajulu

05-10-2007

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